

REMARKS

Reconsideration of the pending claims is respectfully requested in view of the following observations.

1. In the claims

Claim 29 is currently amended with the subject matter of claim 49. The amendatory language in claim 29 requires that the substrate is a glued and pressed wood-based board comprising a material selected from the group consisting of MDF, HDF, particle board, oriented structural board and multiplex. Support for this language is also found in the specification at page 8, first full paragraph. Claims 49 and 50 are cancelled in view of the amendment to claim 29.

Entry of the amendment to claim 29 is respectfully requested in the next Office communication.

2. Rejection of the pending claims under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 4,724,187 (*Ungar*)

Reconsideration of the rejection of the pending claims is respectfully requested in view of the amendment to claim 29 and the following observations. From the following observations, it will be clear that *Ungar* does not anticipate every limitation required by independent claims 29 and 39, from which the remaining claims depend.

a. Claim 29

First, it is submitted that *Ungar* does not disclose a layered floor panel having each and every layer required by claim 29 and the claims dependent therefrom.

Turning to the limitations of claim 29, it is readily apparent that *Ungar* does not disclose or suggest a substrate that is a glued and pressed board comprising a material selected from the group consisting of MDF, HDF, particle board, OSB wood and multiplex so as to form a "plate-shaped direct pressure laminate (DPL) by means of hot pressing." Instead, *Ungar* merely teaches the use of a plurality of layers including different core paper layers (16, 18) which comprise alternating layers of a carbon pigment core paper layer, and a kraft core paper layer (Fig. 1; 3:14-29).

The carbon pigment core paper layer and the kraft core paper layer of *Ungar* do not fall within the scope of the particular material requirements of the substrate established by claim 29. Indeed, the substrate of claim 29 is a glued and pressed wood-based board, and is thus unlike the individual core papers of *Ungar* which are only combined with one another when they are pressed at a high pressure and elevated temperature.

It is clear that a paper layer is not the equivalent to a board, especially since a paper layer does not have the same rigidity as a board. Moreover, the method of claim 29 requires that the substrate, before the DPL process, already comprises a glued and pressed board. The paper layers of *Ungar* are only pressed and consolidated during the high pressure laminate (HPL) process thereof along with the overlay and decorative layer (2:38-49).

It will be further pointed out that claim 29 particularly requires the step of applying a backing layer to the substrate. *Ungar* clearly provides no understanding of including a backing layer underneath a substrate comprising a wood-based board in addition to a wear resistant layer and a decorative layer located on the top of the substrate.

Because claim 29 recites a method for forming a layered floor panel having the substrate and certain layers, including the backing layer, and certain steps and a sequence for consolidating the substrate and the layers, it is clear that *Ungar* cannot anticipate the method of claim 29.

In observing the method steps of claim 29, *Ungar* teaches a high pressure laminate (HPL) or compact laminate process (abstract, 1:5-9 and 3:38-49), whereas claim 29 requires a DPL process. The applicant has previously drawn the distinction between a HPL and a DPL in the remarks dated August 7, 2006. The differences between a HPL and DPL were particularly evident in view of the fact that the HPL process forms a laminate that does not include a substrate such as the type required by pending claim 29. In other words, the HPL process merely requires hot pressing and consolidating a plurality of core paper layers in combination with an overlay and a décor layer. Such a thin laminate formed from the HPL process may be added to a substrate at a later stage or merely employed by itself.

On the contrary, a DPL process, particularly of the type required by claim 29, employs a substrate and a limited number of resin impregnated paper layers which are formed directly onto the substrate. This of course yields a laminated substrate or laminated wood-based board which is unlike the thin laminate formed by the method according to *Unger* which only comprises a multitude of paper layers.

The method of claim 29, by way of the DPL process, avoids the use of many resin impregnated core paper sheets in a laminate, as taught by *Ungar*. When many core paper layers are used, they may have a dissipative effect on an antistatic layer located above a core formed by the core paper layers.

As previously pointed out, there is a high risk that an antistatic agent in a top layer can migrate to an underlying layer. The method according to claim 29, by way of at least in part by the substrate, produces a longer lasting electrically dissipative effect on a layered wear resistant floor panel with little or no effect on the visibility of the decorative pattern. Because the method employs applying fewer layers, and therefore less resin in the application of the DPL process, the method is able to produce a plate-shaped DPL product wherein migration of the antistatic agent is minimized.

In view of these observations, it is submitted that claim 29 and the claims dependent therefrom are not anticipated by *Ungar*. As a result, withdrawal of the rejection of these claims is respectfully requested.

b. Claim 39

As for claim 39, the substrate is particularly described as a gypsum plaster board. There is no disclosure or suggestion in *Ungar* of providing a substrate that is formed as a gypsum plaster board.

In the action, the examiner fails to address claim 39 with any particularity with regard to *Ungar*. The action merely points to the Summary of the Invention, Abstract, column 1, lines 34-46, column 3, lines 50-58, column 4, lines 50-56 and the claims as the sole evidence for apparently rejecting claim 39. The rejection points to no teaching in *Ungar* of providing a gypsum plaster board that has an electrically

dissipative effect using an antistatic agent. Upon the applicant's review of *Ungar*, indeed there is no such teaching in *Ungar*.

Should the examiner maintain the rejection of claim 39 in view of *Ungar*, the applicant respectfully requests the examiner to particularly explain how *Ungar* teaches a layered floor panel that has a core made out of a gypsum plaster board having an electrically dissipative effect using an antistatic agent. Absent any such teachings, the applicant submits that *Ungar* cannot possibly be sustained as an anticipatory prior art document as teaching the layered floor panel according to claim 39.

As indicated in the applicant's former remarks with regard to WO 84/02881 (*Berbeco*), floor panels having the structure required by claim 39 are not known from the prior art. It has been found that gypsum board is more stable when subject to moisture than the core material of traditional laminated floor panels (e.g., MDF or HDF). It has been determined that gypsum board can be provided with a top layer with a decorative pattern and with coupling means in a similar manner to existing layered flooring panels. The top layer may comprise a synthetic material in which an antistatic agent may be uniformly distributed, as required by dependent claim 40. Such a discovery regarding gypsum board is not found in the prior art.

In view of these observations, it is submitted that claim 39 and the claims dependent therefrom are not anticipated by *Ungar*. As a result, withdrawal of the rejection of these claims is respectfully requested.

3. Conclusion

As a result of the amendment to claim 29, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicant's attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin J. Cassell", written in a cursive style.

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